

Andrew M. Calamari
Sanjay Wadhwa
Adam Grace
Kevin P. McGrath
Danielle Sallah
Jess Velona
Neal Jacobson
Attorneys for the Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
200 Vesey Street
New York, New York 10281
(212) 336-1100

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**PLATINUM MANAGEMENT (NY) LLC,
PLATINUM CREDIT MANAGEMENT, L.P.;
MARK NORDLICHT;
DAVID LEVY;
DANIEL SMALL;
URI LANDESMAN;
JOSEPH MANN;
JOSEPH SANFILIPPO; and
JEFFREY SHULSE;**

Defendants.

**Civil Case No.
ECF Case**

**DECLARATION OF NEAL JACOBSON PURSUANT TO
LOCAL RULE 6.1(d) IN SUPPORT OF APPLICATION FOR
ORDER TO SHOW CAUSE, TEMPORARY RESTRAINING ORDER, PRELIMINARY
INJUNCTION, ORDER APPOINTING RECEIVER, AND GRANTING OTHER RELIEF**

I, NEAL JACOBSON, pursuant to 28 U.S.C. § 1746 declare as follows:

1. I am a Senior Trial Attorney employed by the New York Regional office of the Securities and Exchange Commission (“Commission”). I am over 18 years old and am a member of the bar of this Court. This declaration is based upon personal knowledge, knowledge of other members of the Commission staff, documents produced to the Commission staff, and public records.

2. I make this declaration pursuant to Local Civil Rule 6.1(d) to show that good and sufficient reasons exist for bringing the Commission’s application (the “Application”) for an Order to Show Cause, Temporary Restraining Order, Preliminary Injunction, Appointment of a Receiver, and Other Relief in connection with the action it has filed against defendants Platinum Credit Management L.P., Platinum Management (NY) LLC, Mark Nordlicht (“Nordlicht”), and several of Nordlicht’s associates.

3. Ex parte emergency relief is needed to protect for the benefit of investors the assets of funds under the management of two investment advisers controlled and partially owned by defendant Nordlicht: Platinum Credit Management, L.P. (“Platinum Credit”) and Platinum Liquid Opportunity Management (NY) LLC.

4. The Commission’s Complaint alleges that Nordlicht and others have engaged in a wide range of fraudulent conduct in connection with the funds and portfolio companies under their management, including improperly transferring monies between funds under their control to meet short-term obligations and redemption requests; making material misrepresentations and omissions to investors regarding the funds’ illiquidity and inability to timely meet investor redemption requests; engaging in a fraudulent scheme to divert close to \$100 million out of one portfolio company (Black Elk Energy Offshore Operating, LLC) at the expense of non-affiliated

noteholders of that company; and engaging in misrepresentations to divert \$1.5 million from another portfolio company for the benefit of one of the funds.

5. In June 2016, funds under Nordlicht's and Platinum Credit's control announced that they were no longer accepting new investors. On July 18, 2016, Platinum Credit and other advisers controlled by Nordlicht installed Bart Schwartz and Guidepost Solutions LLC as an Independent Oversight Adviser to receive access to information and employees and advance notice of major transactions concerning all of Platinum Credit's and other Nordlicht-controlled funds. However, Nordlicht continues to control the advisers and the funds and recent events confirm that he should be removed from management.

6. On November 30, 2016, Nordlicht asserted his Fifth Amendment right against self-incrimination as to all questions posed to him by the litigation trustee of Black Elk Energy Offshore Operating, LLC in connection with Black Elk's bankruptcy case pending in the Southern District of Texas. Nordlicht was being deposed in connection with his role in the diversion of close to \$100 million out of Black Elk Energy Offshore Operating, LLC, one of the Nordlicht-controlled funds' portfolio companies, at the expense of non-affiliated noteholders of that company.

7. In addition, upon information and belief, this morning, Nordlicht, along with several other defendants, was arrested on securities-related fraud charges filed in the Eastern District of New York, for engaging in conduct similar to that alleged by the Commission in its Complaint.

8. In light of Mr. Nordlicht's recent refusal to answer questions concerning his role in the disposition of assets of a fund-controlled portfolio company and his and his associates' arrests, the Commission believes that emergency relief including the appointment of a receiver is

necessary to protect the assets of the Nordlicht-controlled funds for the benefit of defrauded investors.

9. At approximately 9:00 a.m. on Monday, December 19, 2016, I provided telephonic and email notice that the Commission would be seeking the emergency relief set forth in its papers to counsel to Platinum Credit and Nordlicht, Andrew J. Levander, Esq., Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036, tel. (212) 698-3683.

10. No previous request has been made for the relief sought in the Application.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, NY
December 19, 2016


Neal Jacobson